

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

March 10, 2008

MISC. ORDER 2008-004

BY THE COURT:

Associate Justice Rick Sims is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 10.1004, 10.1012, and 10.1016, during the absence of the Presiding Justice from the court on March 17, 2008 2008, or until his return. The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.
SCOTLAND, P.J.

C049159 THE PEOPLE v. JULIUS (Not For Publication)

The convictions for counts two (carjacking) and three (kidnapping) are reversed. In all other respects, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections and Rehabilitation.

MORRISON, J.

We Concur: Raye, Acting P.J.
Cantil-Sakauye, J.

C052467 THE PEOPLE v. TORO (Not For Publication)

The judgment is affirmed.

MORRISON, J.

We Concur: Raye, Acting P.J.
Hull, J.

C052803 THE PEOPLE v. DAVIS (Not For Publication)

The Yuba County trial court is ordered to (1) dismiss the challenged probation revocation/sentencing proceeding; (2) vacate the sentence imposed at that proceeding; and (3) release defendant from custody on that sentence. Given the assumption noted just above, the Yuba County District Attorney will have a period of 35 months from September 13, 2007, to refile the probation revocation (sentencing) proceeding, if the district attorney chooses to do so. If the district attorney does so, it may seek a revocation order and sentence (which accounts for all time served).

DAVIS, J.

I concur:

Raye, J.

I respectfully dissent: ...

Sims, Acting P.J.

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Court Minutes

March 10, 2008 continued

C054075 THE PEOPLE v. MCGOWAN (Certified For Partial Publication)

The judgment is affirmed. The trial court shall prepare an amended abstract of judgment, as described in part III of the opinion, and shall forward a certified copy to the Department of Corrections and Rehabilitation.

SIMS, Acting P.J.

We Concur: Nicholson, J.
 Morrison, J.

C054439 THE PEOPLE v. DUBY (Not For Publication)

The judgment is affirmed.

CANTIL-SAKAUYE, J.

I concur: Hull, J.

I concur in the result:
 Raye, Acting P.J.

C055754 THE PEOPLE v. NELSON (Not For Publication)

The judgment is affirmed.

RAYE, J.

We Concur: Sims, Acting P.J.
 Davis, J.

**C053640 CITY OF OROVILLE v. OROVILLE (Not For Publication)
POLICE OFFICERS ASSOCIATION et al.**

The judgment is affirmed.

MORRISON, Acting P.J.

We Concur: Robie, J.
 Cantil-Sakauye, J.

C054393 In re IAN M. et al.; HILDA M. v. FARRAH T. (Not For Publication)

The judgment (order re: appointment of permanent guardian) is affirmed.

BUTZ, J.

We Concur: Sims, Acting P.J.
 Raye, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

March 10, 2008 continued

**C055063 In re R.C. et al.; SACRAMENTO (Not For Publication)
COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES v. R.J. et al.**

The order terminating parental rights is reversed conditionally, and the matter is remanded to the juvenile court with directions to order DHHS to provide the tribes with proper notice of the section 366.26 hearing under ICWA. If, after proper and complete notice, a tribe determines that either R.C. or Q.S. is an Indian child as defined by ICWA, the juvenile court is ordered to conduct a new Welfare and Institutions Code section 366.26 hearing in conformity with all provisions of ICWA. If, on the other hand, no response is received or the tribes determine neither minor is an Indian child, then the juvenile court shall reinstate all previous findings and orders.

MORRISON, J.

We Concur: Raye, Acting P.J.
Cantil-Sakauye, J.

March 11, 2008

C049959 THE PEOPLE v. TOLLIVER et al. (Certified For Partial Publication)

As to Tolliver, the sentence is reversed and the matter is remanded for retrial of whether the prior conviction for violation of section 417.3 was a conviction for a serious felony and for resentencing. In all other respects, the judgment against Tolliver is affirmed. As to Villasenor, the judgment is affirmed.

NICHOLSON, J.

We Concur: Scotland, P.J.
Morrison, J.

**C055838 In re SERINA B. et al; LASSEN COUNTY DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. SHARYL S.**

BY THE COURT:

Appellant's petition for rehearing is denied.

DAVIS, Acting P.J.

March 12, 2008

C052320 THE PEOPLE v. PEREZ (Not For Publication)

The judgment is affirmed.

BUTZ, J.

We Concur: Morrison, Acting P.J.
Robie, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
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March 12, 2008 continued

- C053823 THE PEOPLE v. SLADARIU (Not For Publication)**
Defendant's convictions are affirmed. Defendant's sentence is vacated. The case is remanded for resentencing and for correction of the abstract of judgment as noted in footnote 2 and in part II of the opinion and a certified copy of the corrected abstract of judgment is to be provided to the Department of Corrections and Rehabilitation.
SIMS, Acting P.J.
We Concur: Davis, J.
Morrison, J.
- C056761 THE PEOPLE v. GONZALES (Not For Publication)**
The judgment is affirmed.
ROBIE, J.
We Concur: Nicholson, Acting P.J.
Butz, J.
- C052656 In re SHELBY W.; SACRAMENTO (Not For Publication)**
DEPARTMENT OF HEALTH
HUMAN SERVICES v. JONATHAN W.
The judgment of disposition is affirmed.
BUTZ, J.
We Concur: Davis, Acting P.J.
Raye, J.
- C056317 In re S.B.; SACRAMENTO (Not For Publication)**
DEPARTMENT OF HEALTH
HUMAN SERVICES v. STEPHANIE H.
The orders terminating parental rights are reversed and the matter is remanded for the limited purpose of determining whether DHHS complied with the notice provisions of the ICWA by sending complete and accurate information to the tribes and whether ICWA applies in this case. If, after inquiry, the juvenile court determines that the tribes were properly noticed and there either was no response or the tribes determined that the minor is not an Indian child, the orders shall be reinstated. If complete accurate information has not been given, the juvenile court shall order DHHS to comply promptly with the notice provisions of the ICWA. Thereafter, if there is no response or if the tribes determine the minor is not an Indian child, the orders shall be reinstated. However, if a tribe determines the minor is an Indian child and the court is ordered to conduct a new section 366.26 hearing in conformance with all provisions of the ICWA.
BLEASE, J.
We Concur: Scotland, P.J.
Hull, J.

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Court Minutes

March 13, 2008

- C049610 THE PEOPLE v. CURTWRIGHT et al. (Not For Publication)**
The six-month concurrent term imposed for defendant Curtwright's conviction for possession of burglary tools is hereby ordered stayed pursuant to Penal Code section 654. As modified the judgment is affirmed. The superior court is directed to amend the abstracts of judgment in accordance with this opinion and to forward certified copies of said amended abstracts to the Department of Corrections and Rehabilitation.
SIMS, J.
We Concur: Scotland, P.J.
Morrison, J.
- C053070 THE PEOPLE v. ANGULO (Not For Publication)**
The judgment is affirmed.
HULL, J.
We Concur: Blease, Acting P.J.
Sims, J.
- C054840 THE PEOPLE v. ROY (Not For Publication)**
The judgment is affirmed.
ROBIE, J.
We Concur: Scotland, P.J.
Butz, J.
- C055249 THE PEOPLE v. CORDERO (Not For Publication)**
The judgment is affirmed. The trial court is directed to correct the abstract of judgment by deleting the \$2,162 fine. The court shall forward a certified copy of the corrected abstract of judgment to the Department of Corrections and Rehabilitation.
SIMS, Acting P.J.
We Concur: Raye, J.
Robie, J.
- C058345 SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. SCHLICIA G.
BY THE COURT:**
The court examined the notice of appeal and determined that the order appealed from is nonappealable. Therefore, the appeal filed on February 19, 2008 is dismissed. ...
SCOTLAND, P.J.

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Court Minutes

March 14, 2008

- C050443 THE PEOPLE v. FLANNERY (Not For Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We Concur: Sims, J.
 Morrison, J.
- C055062 THE PEOPLE v. ATTERBURY (Not For Publication)**
The order extending defendant's commitment is affirmed.
CANTIL-SAKUYE, J.
We Concur: Hull, Acting P.J.
 Butz, J.
- C055522 THE PEOPLE v. GRIFFIN (Not For Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We Concur: Sims, J.
 Raye, J.
- C056559 THE PEOPLE v. HOPSON (Not For Publication)**
The judgment is affirmed. The trial court is directed to prepare an amended abstract reflecting a total of 127 days of presentence custody credit and forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.
BLEASE, Acting P.J.
We Concur: Nicholson, J.
 Hull, J.
- C054878 In re HECTOR M.; THE PEOPLE (Not For Publication)**
v. HECTOR M.
The fines, fee, and penalty assessments imposed by the juvenile court are vacated, and the matter is remanded with directions to (1) determine the appropriate amount of the fines, fee, and penalties assessments, (2) separately specify them in the dispositional form, and (3) send a certified copy of the new dispositional form, and a completed copy of form JV-732, to the Division of Juvenile Justice of the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.
SCOTLAND, P.J.
We Concur: Blease, J.
 Hull, J.